

SENATE BILL 122

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SB 610/02 - EHE

2003 Regular Session
3r1247

By: **Senator Della**

Introduced and read first time: January 23, 2003
Assigned to: Education, Health, and Environmental Affairs

Committee Report: Favorable with amendments
Senate action: Adopted
Read second time: March 5, 2003

CHAPTER _____

1 AN ACT concerning

2 **Procurement - Debarment - Violations of Law**

3 FOR the purpose of ~~allowing a person to be debarred~~ authorizing the debarment of a
4 person from entering into a contract with the State if the person has ~~engaged in~~
5 ~~a pattern of violations of federal or State labor laws, civil rights laws, or~~
6 ~~environmental protection laws~~ been criminally convicted of, or found civilly
7 liable for, a certain number of violations of certain laws; and generally relating
8 to certain grounds for debarment from entering into contracts with the State.

9 BY repealing and reenacting, with amendments,
10 Article - State Finance and Procurement
11 Section 16-203
12 Annotated Code of Maryland
13 (2001 Replacement Volume and 2002 Supplement)

14 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
15 MARYLAND, That the Laws of Maryland read as follows:

16 **Article - State Finance and Procurement**

17 16-203.

18 (a) A person may be debarred from entering into a contract with the State if
19 the person, an officer, partner, controlling stockholder or principal of that person, or
20 any other person substantially involved in that person's contracting activities has:

21 (1) been convicted under the laws of the State, another state or the
22 United States of:

1 (i) a criminal offense incident to obtaining, attempting to obtain, or
2 performing a public or private contract, except as provided in § 16-202; or

3 (ii) fraud, embezzlement, theft, forgery, falsification or destruction
4 of records, or receiving stolen property;

5 (2) been convicted of a criminal violation of an antitrust statute of the
6 State, another state, or the United States;

7 (3) been convicted of a violation of the Racketeer Influenced and Corrupt
8 Organization Act, or the Mail Fraud Act, for acts in connection with the submission of
9 bids or proposals for a public or private contract;

10 (4) been convicted of a violation of § 14-308 of this article;

11 (5) been convicted of conspiracy to commit any act or omission that
12 would constitute grounds for conviction under any of the laws or statutes described in
13 paragraphs (1), (2), (3), or (4) of this subsection; or

14 (6) been found civilly liable under an antitrust statute of the State,
15 another state, or the United States for acts or omissions in connection with the
16 submission of bids or proposals for a public or private contract.

17 (b) A person may be debarred from entering into a contract with the State if,
18 during the course of an official investigation or other proceedings, the person, an
19 officer, partner, controlling stockholder or principal of that person, or any other
20 person substantially involved in that person's contracting activities has admitted, in
21 writing or under oath, an act or omission that constitutes grounds for conviction or
22 liability under any law or statute described in subsection (a) of this section.

23 (c) A person may be debarred from entering into a contract with the State:

24 (1) if the Board finds that the person was established or operates in a
25 manner designed to evade the application of this title or to defeat the purpose of this
26 title;

27 (2) if the person is a successor, assignee, subsidiary, or affiliate of a
28 person who is debarred or suspended;

29 (3) for one of the following violations of a contract provision if the Board
30 believes it to be serious enough to justify debarment:

31 (i) the deliberate failure, without good cause, to perform in
32 accordance with the specifications, or within the time limit, provided in a contract; or

33 (ii) within the preceding 5 years, the failure to perform or of
34 unsatisfactory performance in accordance with the terms of one or more contracts,
35 unless the failure to perform or unsatisfactory performance was caused by acts
36 beyond the control of the person; [or]

1 (4) IF THE PERSON HAS ENGAGED IN A PATTERN OF VIOLATIONS OF
2 ~~FEDERAL OR STATE LABOR LAWS, CIVIL RIGHTS LAWS, OR ENVIRONMENTAL~~
3 ~~PROTECTION LAWS~~ BEEN CRIMINALLY CONVICTED OF, OR FOUND CIVILLY LIABLE
4 FOR, AT LEAST TWO VIOLATIONS OF ANY FEDERAL OR MARYLAND:

5 (I) LABOR LAW, IF THE VIOLATIONS SIGNIFICANTLY IMPACT THE
6 HEALTH OR SAFETY OF WORKERS;

7 (II) CIVIL RIGHTS LAW; OR

8 (III) ENVIRONMENTAL PROTECTION LAW, IF THE VIOLATIONS
9 SIGNIFICANTLY IMPACT THE HEALTH OR SAFETY OF WORKERS OR MEMBERS OF THE
10 GENERAL PUBLIC; OR

11 (5) for any other cause that the Board determines to be so serious as to
12 affect the integrity of the procurement process.

13 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
14 October 1, 2003.